

Exhibit 3:

Excerpts from Deposition of Dominic Vivona

30(b)(6)  
Dominic Vivona - September 20, 2018

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

VIDEOTAPED RULE 30 (b) (6) DEPOSITION

OF

DOMINIC VIVONA, JR.

SEPTEMBER 20, 2018

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1 Q. One of the things you were asked to talk  
2 about today in the deposition notice was the  
3 contracts with other operators such as Belle City  
4 Amusements, Prime Time Amusements.

5 Are you prepared to talk about that  
6 today?

7 A. Yes.

8 Q. There is -- I have a copy here of the  
9 Belle City Independent Attraction Contract,  
10 copies for everyone else.

11 (Whereupon, the above-mentioned document  
12 was marked as Exhibit 4 to the testimony of the  
13 witness, and is attached hereto.)

14 Q. (BY MR. TEITENBERG) Do you recognize  
15 this contract?

16 A. Yes.

17 Q. Tell the jury what this contract is for?

18 A. It's a contract that we use for when we  
19 subcontract amusement rides at our fairs.

20 Q. So this is a contract whose form would  
21 have been essentially drafted by A of A?

22 A. Yes, that's correct.

23 Q. Is it typical to other contracts that  
24 you do with other independent attraction

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1 operators?

2 A. Yes.

3 Q. You would have a similar contract like  
4 this in 2016 with Prime Time Amusements, LLC?

5 A. If we have one, if we had one, I don't  
6 know if we do.

7 Q. Sometimes it's an oral agreement?

8 A. Correct.

9 Q. Did A of A have any other oral agreement  
10 with Belle City Amusements?

11 A. Besides for this event, no, for this  
12 contract, no.

13 Q. Outside of what's in the contract, does  
14 Amusements of America have any rules or  
15 guidelines that subcontractors have to abide by?

16 A. Outside of the contract, I guess it  
17 depends. Would you be referring to like  
18 generators and so forth or --

19 Q. Well, anything -- anything really.

20 A. Well, I guess for a generator aspect,  
21 typically our policy is if you bring eight to ten  
22 or more rides, we would request electrical power  
23 as well to help power the equipment.

24 Q. Okay. And by electric power, you mean

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1 generators?

2 A. Yeah. That's not in the contract.

3 Q. Okay. One of the things you were  
4 designated to speak about was the -- the TOSHA  
5 investigation that the State of Tennessee  
6 performed?

7 A. Yes.

8 Q. Have you read that TOSHA report?

9 A. Yes.

10 Q. And was there anything in that report  
11 that is inaccurate?

12 MR. GRIFFEE: Object to the form.

13 THE WITNESS: Do I still answer?

14 MR. GRIFFEE: Yeah.

15 THE WITNESS: The facts were laid out to  
16 my understanding, not being there, accurately.

17 BY MR. TEITENBERG:

18 Q. The facts are inaccurate?

19 A. No. The facts are accurate to my  
20 understanding.

21 Q. Oh, okay. Is there anything that A of A  
22 believes is inaccurate in that report?

23 MR. GRIFFEE: Same objection.

24 A. Based upon what the two penalties that

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1 and Music Festival?

2 MR. GRIFFEE: I will object to the form.

3 A. Any other arrangements, which would be  
4 what exactly?

5 Q. How would you -- any other agreements  
6 or --

7 A. Nothing written, nothing written, no.

8 Q. Are there oral arrangements or  
9 agreements between Amusements of America and  
10 Belle City Amusements, Inc. regarding the 2016  
11 Delta Fair and Music Festival?

12 A. Yes.

13 Q. What are those oral agreements?

14 A. One would be the generator for the site,  
15 for usage during the fair. Let's see what else,  
16 they would have to pay, I don't know if it's in  
17 here or not, they would have to pay for trailer  
18 rent for their employees and RVs.

19 They would have to have the ride permits  
20 for their rides. I'm not sure if that's in there  
21 or not. I'm just -- but that's part of the  
22 agreement.

23 Q. Any other oral agreements that  
24 Amusements of America has with Belle City

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1 Amusements, Inc. regarding the 2016 Delta Fair  
2 and Music Festival?

3 A. Not that I'm aware of.

4 Q. And those three oral agreements that we  
5 talked about, they are not in the Independent  
6 Attraction Contract that has been marked as  
7 Exhibit 4, are they?

8 A. I don't believe they are.

9 Q. Is it Amusements of America's position  
10 that the Independent Attraction Contract that has  
11 been marked as Exhibit 4 did not contain any  
12 provision that requires Belle City to supply  
13 generators?

14 MR. GRIFFEE: Object to the form.

15 A. The written contract does not state  
16 anything about generators.

17 Q. And you mentioned that Amusements of  
18 America had a requirement if a ride operator was  
19 going to bring eight to ten rides that they would  
20 request electrical power?

21 A. Correct.

22 Q. Is that a written requirement?

23 A. Generally accepted practice that we use.

24 Q. Okay. And how is that practice

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1 communicated to ride operators?

2 A. When we talk about the ride lineup they  
3 were in. So we had discussed with Belle City  
4 this ride lineup. So at that point, and also  
5 obviously the monetary compensation, our  
6 percentage, that would have been discussed at  
7 that time.

8 Q. Is it -- is the requirement to bring a  
9 generator to power all eight to ten rides?

10 A. Logistically it's for power usage. It  
11 doesn't have -- they wouldn't specifically power  
12 their own rides. But because of that additional  
13 power of the eight rides needed, we need that  
14 generator.

15 So it's needed in the whole scope of the  
16 fair, but it would not be used -- isolated with  
17 their specific rides.

18 Q. So would it be fair to say that the  
19 requirement is one generator from the ride  
20 operators who are going to bring eight to ten  
21 rides?

22 A. Correct. If they brought sixteen, they  
23 would be asked for two generators.

24 Q. Are ride operators compensated for

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1 bringing a generator when they bring eight to ten  
2 rides?

3 A. No, but we pay for all the fueling so  
4 they have no additional expense.

5 Q. At what point is the requirement to  
6 bring a generator if a ride operator is going to  
7 bring eight to ten rides discussed?

8 A. During the time we negotiate for the  
9 number of rides and the percentage.

10 Q. Are there any situations where a  
11 generator to power -- or a generator for  
12 electrical use at a fair is not needed from a  
13 ride operator who is going to bring eight to ten  
14 rides?

15 A. It's possible based upon the layout, the  
16 size of the grounds. If it's more compact, it's  
17 possible that you could get by with one less  
18 generator, but it's possible.

19 Q. So it's not, I guess, a per se or an  
20 automatic rule that any ride operator --

21 A. Sorry.

22 Q. Let me repeat this for the record. So  
23 it's possible that if a ride operator brings  
24 eight to ten rides they could -- they would have

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1 some situations where they wouldn't be required  
2 to bring a generator?

3 MR. GRIFFEE: Object to the form.

4 A. We have never not asked for a generator.  
5 Always be safe than sorry.

6 Q. Have you -- have there been situations  
7 where the generator that's brought by a ride  
8 operator who brings eight to ten rides is not  
9 used?

10 A. Possibly.

11 Q. Has that happened at the 2016 Delta  
12 Fair?

13 A. No.

14 Q. Has that happened at any Delta Fair?

15 A. No.

16 Q. When a ride operator who is bringing  
17 eight to ten rides to a fair is required to bring  
18 a generator, are there any other requirements  
19 asked of that ride operator?

20 MR. GRIFFEE: Object to the form.

21 A. Any other requirements asked of that  
22 ride operator? I mean, yeah, I guess, yes, but  
23 it's generally they have to wear our uniforms.  
24 They have to follow the hours posted of the fair,